

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

TERRENCE WILLIAM CARR,

Plaintiff,

vs.

OLGA ALVAREZ, et al.,

Defendants.

Case No. 6:19-cv-01706-MK
OPINION & ORDER

AIKEN, District Judge:

Magistrate Judge Mustafa T. Kasubhai filed his Findings and Recommendation (“F&R”) (doc. 51) on February 18, 2021. The matter is now before me. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72. No objections have been timely filed. Although this relieves me of my obligation to perform a *de novo* review, I retain the obligation to “make an informed, final determination.” *Britt v. Simi Valley Unified Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983), *overruled on other grounds*, *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121–22 (9th Cir. 2003) (en banc). The Magistrates Act does not specify a standard of review in cases where no objections are filed. *Ray v. Astrue*, 2012 WL 1598239, *1 (D. Or. May 7, 2012). Following the

recommendation of the Rules Advisory Committee, I review the F&R for “clear error on the face of the record[.]” Fed. R. Civ. P. 72 advisory committee’s note (1983) (citing *Campbell v. United States District Court*, 501 F.2d 196, 206 (9th Cir. 1974)); *see also* *United States v. Vonn*, 535 U.S. 55, 64 n.6 (2002) (stating that, “[i]n the absence of a clear legislative mandate, the Advisory Committee Notes provide a reliable source of insight into the meaning of” a federal rule). Having reviewed the record of this case, I find that the deficiencies regarding plaintiff’s claims against Sheriff Nelson may be curable through amendment. Accordingly, these claims are dismissed without prejudice. Plaintiff is granted leave to amend his claims addressing the statute of limitations issues noted in the F&R, if possible. I ADOPT the remainder of Judge Kasubhai’s F&R (doc. 51) in its entirety.

Plaintiff shall file his Third Amended Complaint, if any, within fourteen (14) days of the date of this Order.

IT IS SO ORDERED.

Dated this 5th day of March 2021.

/s/Ann Aiken
Ann Aiken
United States District Judge